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The situation of democracy and human rights in Haiti

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Report of the Secretary-General

I. Introduction

1. The present report is the second and last report on the implementation of General Assembly resolution 52/174 of 18 December 1997, by which the Assembly renewed the mandate of the United Nations component of the joint Organization of American States/United Nations International Civilian Mission to Haiti (MICIVIH) until 31 December 1998. Pursuant to paragraph 3 of the resolution, the report describes the activities of MICIVIH since my report of 20 July 1998 (A/52/986) and contains recommendations on the ways in which the international community can continue to assist with the tasks of providing the Haitian authorities with assistance in the field of institution-building, supporting the development of a programme for the promotion and protection of human rights and verifying full observance by Haiti of human rights and fundamental freedoms. Prepared in consultation with the General Secretariat of the Organization of American States (OAS), the report reviews the general context in which MICIVIH has been operating, the Mission's efforts to enhance respect for human rights through its monitoring of, and technical assistance to, the police force, the prison administration, the justice system and the Office of the Ombudsman as well as its human rights promotion programmes.

2. MICIVIH continued to liaise and cooperate with the United Nations Civilian Police Mission in Haiti (MIPONUH), which has been providing it with logistical and administrative support.

II. General context

3. Since my report of 20 July 1998, the political situation has not improved; it is still dominated by the protracted electoral and institutional crisis, which continues to erode the moral, political, economic and social fabric of the country. Uncertainty shrouds the immediate future of most democratic institutions.

4. The process of ratification of the candidate designated in July by President Préval as Prime Minister has been interrupted in Parliament, the hostage of procedural shilly-shallying by the administrative and financial tribunal (La Cour supérieure des comptes et du contentieux administratif), a new and unexpected actor in this long-playing political stand-off. The utter lack of a sense of urgency, displayed by all concerned, over the absence of a Prime Minister and a properly constituted government contrasts unfavourably with the gravity of the overall situation in the country and the plight of its citizens, both of which have been aggravated by the catastrophic consequences of Hurricane Georges.

5. The Lower House of Parliament has gone into recess after a fruitless session, proclaiming that, constitutionally, its mandate expires in November 1999 and not November

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1998, as required by the 1995 electoral law, thereby avoiding an institutional void. It awaits to be convened in special session by the President to ratify the Prime Minister designate.

6. The discredited Provisional Electoral Council, which ceased to exist in July with the resignation of its two remaining members and the closing of its regional offices, has not yet been replaced. President Préval has advanced cautiously in his consultations, hemmed in as he is between the vocal minority clamouring for the establishment of a politically unacceptable but constitutionally required permanent electoral council and the broad political consensus insisting on a trustworthy but provisional electoral body. The question of holding legislative and local elections in November 1998, as required by the electoral law of 1995, has now become moot.

7. The territorial assemblies resulting from the disputed elections of April 1997 have been given the means by the central authorities to convene formally for the first time. The novelty of their status, lingering questions about their legitimacy and conflicting political loyalties have led to friction with many of the municipalities. In addition, their launching is perceived in some quarters as laying the ground for the establishment of a permanent electoral council, one of their prerogatives. These fears have not been allayed by the initial resolutions the assemblies have adopted in support of the immediate creation of such an institution, thereby adding a new layer of complexity to an already intractable situation.

8. It is increasingly clear that the gridlock affecting the ratification of a new Prime Minister and government, the functioning of Parliament and the resumption of the electoral process will not be lifted until a solution has been found to the catalyst of the crisis, the unresolved problems surrounding the elections of April 1997, and to the deeper issues behind it relating to profound disagreements over the choice of social and economic policies for the development of Haiti and the exercise of political power.

9. Recurrent denunciations by State authorities of plots against the security of the State, accompanied by arrests, have remained unsubstantiated as they have never been tested in the law courts. These denunciations have met with widespread public scepticism as well as criticism from opposition parties.

10. The new stridency in political discourse mentioned in the July report has risen on occasion to a higher level of shrillness, with charges and countercharges of political malfeasance. More ominously, this has been accompanied by sporadic incidents of political intolerance, which have cast a shadow on the full enjoyment of the fundamental liberties of expression and of assembly. The fragmentation and internal tensions which have wracked the erstwhile ruling Lavalas coalition are increasingly taking a toll on well-established grass-roots organizations as well as on human rights and victims' defence associations which shared the same aspirations of social justice. The disaffection of these once dynamic sectors, which played a crucial role in the broad and popular movement towards democracy, represents a setback for this movement at a moment when the restoration of constitutional government and democratic processes has not met popular expectations or fulfilled its promises of a better tomorrow.

11. The continuing crisis and political strains are impinging on the institutional development of the police and the judiciary. They are also leading to increasing political volatility and partisan behaviour which have on occasion ensnared the police when they sought to carry out their responsibilities to maintain public order. The perception of insecurity and the corrosive effect of drug trafficking on the internal coherence of the Haitian National Police continue to be sources of acute public concern.

12. MICIVIH has been able to maintain a high level of activity in the mandated areas of institution-building, human rights promotion and verification despite the difficulties of the general situation and a limited complement of staff (40 United Nations observers and 40 OAS observers). Training, outreach and promotion activities have, in general, offset the irritation that constant verification of respect for human rights and due process can engender in the scrutinized officials. The Mission has also been successful in maintaining excellent working relationships with governmental and institutional authorities who have themselves made accountability one of their key priorities and who have always remained open to the Mission's recommendations and proposals.

III. Institution-building and human rights monitoring

13. Along with the prison administration, the judiciary and the Office of the Ombudsman, the police are the main focus of the Mission's attention in its efforts to enhance respect for human rights and due process, key elements that contribute to the reinforcement of the rule of law and democratic process.

A. Haitian National Police

14. The leadership of the Haitian National Police reaffirmed its commitment to reforming and strengthening the force. A five-year plan setting priorities and strategies has just been announced. The chain of command was further strengthened by appointments to senior positions.

15. However, logistical and technical constraints continued to impinge on the ability of the Haitian National Police to execute judicial warrants, carry out patrols and transfer detainees to court or to prison. Absenteeism in the smaller, more remote provincial stations continued to be high, while plans to recruit additional police officers for rural areas are yet to be concretized. In many police stations, police officers voiced frustration about poor working conditions, 12-hour work shifts and equipment shortages.

16. The Haitian National Police continued to make progress in maintaining law and order. Compared with previous years, few incidents were reported during the patron saint festivities around the country, during which large crowds congregate. Demonstrations were generally contained by the crowd-control units, which displayed increasing professionalism. However, concerns remain over the use of these specialized units in executing arrest warrants and thereby performing duties which fall to the judicial police. While further progress was made in the development of an investigative capacity by the central judicial police, arrests on the basis of unverified (and sometimes ill-intentioned) denunciations continued to be common in the field.

17. Despite generally successful efforts to promote community policing, the fragility of the relationship between police and population was highlighted again by serious incidents in Cabaret, Cité Soleil, Ile de la Tortue and Ganthier, where the police stations were besieged by angry crowds following incidents involving police for the most part. MICIVIH was instrumental in organizing a series of meetings bringing together the police and the representatives of the local community in Cabaret to repair their strained relations.

18. Besides incidents arising from social and economic problems, the deteriorating political situation and related tensions began to have an impact on the force. The August arrest of some activists from the Organisation du Peuple en Lutte in the Grand'Anse region for contempt of court by members of the regional crowd-control unit was portrayed by the party as an example of political repression. There was basically the same reaction from Fanmi Lavalas elements in the Central Plateau when the leader of a popular organization was arrested for carrying an unlicensed firearm.

19. Statistics show greater self-restraint by police in the use of their weapons. There were 14 reports of killings by police from June to September, bringing the total for the first nine months of the year to 27, which was 15 fewer than in the same period in 1997. One was accidental, five were cases of excessive force (in one instance a possible execution) and three were officially reported as having occurred in an exchange of shots in Port-au-Prince with suspected gang members. Ten other deaths in the poor Port-au-Prince neighbourhoods of Cité Soleil and Lower Delmas were alleged to be extrajudicial killings of suspected gang members by police. If proved, this could mark the continuation of a disturbing trend that began in 1997. Unfortunately, such killings seemed to be condoned by both the population and senior police officers. From June to September, two members of presidential security units were shot dead in separate incidents apparently unrelated to their immediate security duties, bringing the total number of Haitian National Police members killed in 1998 to 13, and the total killed since the creation of the force in 1995 to 45.

20. Police conduct with regard to treatment of persons arrested and in their custody continued to be a source of concern. From June to September 1998, MICIVIH received 140 reports of beatings of persons in police custody, which represented a continuation of the higher rate of ill-treatment observed during the first five months of the year. There were two further cases of deaths in police custody following alleged beatings, in Fort-Liberté and Hinche in July, bringing the total of such cases for the year so far to three. After representations to senior police authorities by MICIVIH with corroborated details of serious beatings in the Port-au-Prince, Pétionville and Cap-Haïtien police stations, reports of ill-treatment from those stations fell sharply for a month or two but subsequently began to pick up again. Following the re-establishment of a permanent MICIVIH bureau in the north-east in May, local judicial officials and a local non-governmental organization reported a marked fall in allegations of ill-treatment by police, an improvement that was supported by MICIVIH observations.

21. During the period under review, the Haitian National Police was beset by widespread allegations of police involvement in drug trafficking, in particular the disappearance of a large haul of cocaine, for which two policemen were arrested and five others went into hiding. The situation was worsened by the resignation of the interim judicial police director and his well-publicized allegations of high-ranking police misconduct during the investigation and of the police becoming a political militia. The case

captured the attention of the news media and was the subject of parliamentary hearings. The resignation and the ensuing controversy, which coincided with attacks from a political party, briefly unsettled the institution.

22. Not surprisingly, the work of the Office of the Inspector-General was more than ever dominated by allegations of police involvement in drug trafficking. With its attention thus absorbed, the Office appeared to devote less time and fewer resources to investigating allegations of extrajudicial executions, beatings and other forms of ill-treatment. At the same time, many officers in charge of police stations continued to be reluctant to carry out their own internal investigations. Of the three reported deaths in police custody, only the one in Fort-Liberté was thoroughly investigated. A police commissioner in Les Cayes who tried to investigate cases of ill-treatment found himself confronted by peer hostility and in conflict with his superior, and was transferred. The officer whom he had found to be implicated in most of the ill-treatment cases was also transferred instead of disciplined. However, municipal and regional police authorities did show increasing readiness to take action in cases of death or injury resulting from unjustified use of firearms, placing the officers implicated in disciplinary detention (*en isolement*) pending the result of enquiries. During the period from June to September, 74 police officers were dismissed, most of them for drug-related or other illegal activities and some 15 for human rights violations. Altogether, 122 police officers were dismissed between 1 January and 6 September 1998, bringing the total number dismissed since 1995 to 348. MICIVIH continued to give support and encouragement to supervising officers who were willing to investigate incidents of police misconduct and to work closely with the Office of the Inspector-General.

23. Prosecutions of police abuses continued to be rare and were almost never undertaken on the sole initiative of judicial officials. Typically, prosecutions were undertaken when victims complained to courts. A few cases that came to trial resulted in the police officer being fined. In other cases, the complaint was withdrawn and the prosecution dropped after financial settlements were negotiated between the victim and the police agent(s). In a few serious cases, such as a fatal shooting in the Artibonite region in July, a prosecutor placed a police officer in pre-trial prison detention after he had been detained following an internal police investigation. The arbitrary arrest by police of a deputy justice of the peace in Cavaillon in July elicited an exceptional response from district judicial officials. By the end of August, they had placed a total of five police officers in pre-trial detention despite repeated resistance from police authorities, which was overcome in the fifth officer's case by a popular demonstration.

24. The MICIVIH suggestion of a special prosecutor to deal specifically with cases of police abuse has not found favour with the authorities, who point out the difficulty of finding someone with the courage to perform such a job. The recommendations of MICIVIH with regard to the importance of autopsies in cases of death in police custody were implemented following the incident in Fort-Liberté.

25. MICIVIH continued to monitor respect for the constitutional stipulation that limits the length of time detainees can be kept in police custody without seeing a judge to 48 hours. After MICIVIH repeatedly voiced concern about the large number of detainees in the central Port-au-Prince and Pétionville police stations, many of whom had been held for several months, a concerted effort was made to send detainees to court as quickly as possible and the number fell sharply from June onward. A marked improvement was also achieved in Les Cayes. On the other hand, the illegal practice by justices of the peace and State prosecutors of authorizing an extension of the period of police custody without seeing the detainee continued in many other places, especially Jacmel, Jérémie and Port-de-Paix.

26. Training continued to be an important aspect of the institution-building activities of MICIVIH vis-à-vis the police. Four-day general human rights seminars for police were conducted in Port-de-Paix, Fort-Liberté, Jérémie and Carrefour. With the participation of MIPONUH, a day of reflection on human rights issues was held with police in Pétionville. Beginning in June, an innovative training programme was tested with police in Les Cayes. Developed jointly with the Haitian National Police Training Department, the programme was expected to form the basis of a component of the Police Academy course for recruits. Participants were encouraged to examine cultural and institutional attitudes and behaviour that affect human rights and dignity, and to apply human rights principles to real-life situations in case studies derived from the Mission's monitoring. The programme, which combines human rights and conflict resolution techniques and draws linkages between the two, was introduced in a number of provincial capitals as from October 1998.

27. As in the past, regional offices monitored and gave training, in collaboration with MIPONUH, on the correct use of the detention register and on the underlying legal and human rights principles, producing improvements in its upkeep in some police stations. Nonetheless, the registers continued to be poorly maintained or not replaced in many

other stations, making it easier for illegal or improper practices to go undiscovered. Senior officers need to be more diligent in ensuring the proper use of the registers.

B. Prisons and detention centres

28. MICIVIH continued to monitor the conditions and treatment of prison detainees and to assess their judicial status. The most serious cases of prolonged pre-trial detention were regularly brought to the attention of the judicial officials responsible. As part of this work, observers continued to encourage and help prison clerks improve their record-keeping. With sustained MICIVIH support, a major project was begun at the National Penitentiary records office in which prison registers and individual prisoner files were being checked one-by-one to ensure that relevant information was entered into the prison's computer database and organized in a useful fashion. A major problem observed by the Mission was the haphazard transmission of information about individual detainees between the prison administration and the judicial system and vice versa. This situation could be greatly improved by the deployment of legal assistants to all prisons.

29. MICIVIH tallied just over 3,500 inmates in Haiti's 19 overcrowded prisons in September, some 200 more than in April. The proportion of those serving sentences was unchanged at 19 per cent. The population fell in some prisons, such as Port-de-Paix, partly as a result of MICIVIH approaches to the relevant judicial authorities, and mushroomed in others, for example Gonaïves, where it went from 150 to 250 in nine months.

30. Fewer cases of ill-treatment by prison guards were reported to MICIVIH from June to September, in contrast to the sharp increase noted during the first five months of the year. Two detainees were shot and wounded in an attempt to escape from Les Cayes prison on 13 June, and seven of the eight who were recaptured complained of being beaten two days later. Detainees were also allegedly beaten by police after another attempt to escape from Les Cayes prison on 3 August. A reason given in the past by the penal system's directorate for not dismissing guards for ill-treatment was the severe staff shortage in all prisons. It is hoped that this pretext will be nullified by the deployment of new guards. In a related matter, MICIVIH has expressed concern over reports that prison guards in Port-au-Prince, to avoid being accused of ill-treatment, sometimes enforced discipline by instructing trusted detainees (majors) to beat wayward cellmates.

31. Overcrowding, combined with erratic food supplies and dysfunctional facilities, placed the health of detainees at risk. Skin diseases were common, and the spread of tuberculosis was a concern in some prisons, such as Cap-Haïtien, Port-de-Paix and Fort-Liberté. In a survey of detainees carried out by a physician in Jérémie prison, MICIVIH found that 49 per cent showed some degree of malnutrition and 17 per cent were suffering from advanced malnutrition. Serious ailments were often left untreated because of the negligence of prison health care officials, logistical constraints or refusal by hospitals to provide treatment without being paid. Thirty-four of the National Penitentiary's approximately 1,500 inmates died of natural causes during the first nine months of 1998, compared with 21 for the same period in 1997. Anaemia or beri-beri was mentioned as a contributory cause in 19 of the deaths. MICIVIH regularly drew all these problems to the attention of prison supervisors and to the director of the prison administration.

32. A total of 108 new prison administration recruits completed 10 weeks of introductory training in mid-August and most had been deployed by the end of September. This was the prison administration's first new intake since its creation in 1995 and brought the total number of prison guards to 469. Another 255 recruits were due to be trained over the coming year. MICIVIH provided sessions on human rights in the prison environment for the first group of 36 recruits who began training at the end of September. The Mission also contributed human rights sessions to a two-week training course which the prison clerks began receiving in small groups in August. MICIVIH was deeply disappointed that the prison administration had not yet obtained approval for prison regulations and a code of conduct for prison guards drafted in 1997. During training sessions, prison guards complained about the absence of such regulations and disciplinary measures concerning misconduct of detainees.

C. System of justice

Judicial system

33. Calls for improvements in the administration of justice, particularly the workings of the criminal justice system, have become more widespread and pressing. This is a clear sign that little progress has been made in meeting the expectations and satisfying the long-standing grievances of the ordinary Haitian for a more honest, equitable and effective judicial system. The highest authorities of the State

acknowledge publicly that these calls and criticisms are well founded.

34. In July, at a meeting chaired by President Préval, the Haitian authorities presented to the international community a judicial reform project complete with strategies and plans of action. Agreement was also reached on a short-term plan of action to kick-start the process. In August, the long-delayed law on judicial reform was promulgated. The lack of follow-up to the July meeting was unfortunate.

35. However, a number of positive actions were taken which are expected to have a beneficial impact on the judicial system, particularly in the areas of training and the administration of justice. The Mission has continued to encourage the authorities to take such measures and to support their efforts.

36. Training is essential to improve the competence of judicial personnel. During the reporting period, the first graduating class of 60 magistrates from the Magistrates School (École de la Magistrature) was deployed throughout the different jurisdictions. The level of their training should make a difference to the quality of the justice normally rendered. Unfortunately, the resumption of training for the next batch has been beset by delays.

37. MICIVIH encouraged and participated in a joint training programme for magistrates and judicial police. It has also carried out a two-month assessment of the impact of a series of seminars on mediation which it had provided, in partnership with the Magistrates School, for justices of the peace and State prosecutors in Artibonite during the second half of 1997. The study found that the participants had assimilated and applied the principles presented in the seminars, and that the population's access to justice had improved. In two follow-up seminars in July, the justices of the peace and prosecutors carried out their own evaluation of their experience of applying those principles in the field. In their conclusions, they recommended that mediation be recognized as a juridical procedure, included in the programmes of the Magistrates School, and promoted in other parts of the country. Those conclusions were presented to the judicial reform commission of the Ministry of Justice. Some of the Artibonite justices of the peace and MICIVIH joined a working group that has responsibility for the inclusion of mediation in the judicial reform process.

38. Oversight by the Ministry of Justice is also a key factor for a well-functioning justice system. MICIVIH pointed out that, without any proper means of control and follow-up, ministerial instructions would remain ineffective. It was therefore heartened to learn that the training of judicial inspectors was about to be initiated.

39. The situation of minors in detention or in danger has been a constant priority of the Mission which has provided technical assistance and encouragement to the Ministry of Justice in this area. The laying of the first stone for a future Port-au-Prince juvenile court, to be built with Canadian assistance, is a promising development.

40. The continuing inability of the criminal justice system to prosecute persons suspected of criminal activity and arrested by the police is creating increasing strains and stresses with the police. In too many instances, there is neither criminal investigation nor judicial follow-up to arrests, eventually resulting in the release of the suspected criminals. Not only does this undermine the work and the morale of the police, but, more ominously, it can lead the police to take the law into their own hands. MICIVIH helped settle disputes between judicial and police officials which often hampered the execution of their respective duties, and continued to initiate meetings bringing together representatives of these and other institutions.

41. MICIVIH documented and helped redress the most serious shortcomings of the system, namely, jurisdictions weakened by absenteeism, resignations or dismissals and delays in appointing replacements; inadequate or non-existent judicial enquiries; non-observance of procedural time-limits; and arbitrary sentences.

42. Lengthy pre-trial detention remained a widespread violation of the right to personal liberty. Recourse to several ad hoc mechanisms has to date given only partial satisfaction as they do not address the structural nature of the problem. The most recent of these mechanisms has been the Bureau de contrôle de la détention préventive at the Port-au-Prince national jail. It examines the legal situation of detained persons in this prison and, in the absence of substantial grounds for detention, it can recommend release. Between late May and late August, the Bureau examined 543 dossiers and 235 persons were released. MICIVIH continues to transmit information on the legal situation of detainees to judicial officials and to urge them to fulfil their responsibilities vis-à-vis detainees.

43. Of great concern to MICIVIH is the increasing number of cases (14 in Port-au-Prince) where State prosecutors refuse to comply with writs of habeas corpus or judicial release orders. The cases involved are sensitive because of the public notoriety of the detainees (for example, Evans François, Osner Févry, Claude Raymond, Patrick Moïse) or of the gravity of the accusations, such as threatening State security. As the cases are never brought to trial, the quality of the evidence on which they are based remains untested. The persistence of this disquieting trend does a great

disservice to the criminal justice system and to the independence of the judiciary. Moreover, the arbitrary and illegal nature of these detentions is increasingly bringing into question the commitment of the State to reinforcing the rule of law.

44. During the period under review, there was a significant increase in the number of persons arrested on the charge of plotting against the State or related charges (27 between July and August). To the extent that the persons accused of such acts over the past two years have not been brought to trial, the validity of these arrests and the credibility of the authorities are increasingly being questioned. In addition, during some of the recent arrests, procedural requirements were not fully respected (for instance, violation of territorial jurisdiction by a public prosecutor).

45. The Mission has made known its concerns about these violations of due process and the rule of law to the highest authorities, during meetings and in writing, and has called for corrective action, to no avail. It has also expressed these concerns publicly in the course of press conferences and interviews. Similar protests have also been made by local human rights organizations and by opposition leaders. These grave violations of the law and of the habeas corpus dispositions of the Constitution, as well as a number of other cases where the chief public prosecutor in Port-au-Prince exceeded his jurisdictional authority in issuing warrants, led the interim chairman of the Human Rights Committee of the Senate to call for the replacement of this official in a letter dated 21 September 1998 to the Minister of Justice. There clearly needs to be a more systematic and concerted effort on the part of the authorities to ensure respect for the rule of law. The State also has to set the example by ensuring that ministries and parastatal bodies respect judicial decisions when carrying out their activities.

46. Finally, it should be noted that MICIVIH continued to urge the ratification of outstanding regional and universal human rights instruments and that Haiti recognized recently the binding jurisdiction of the Inter-American Court of Justice.

Impunity and compensation

47. MICIVIH encouraged or facilitated various initiatives to heighten public awareness in the fight against impunity and for the compensation of victims of past human rights abuses. In July 1998, at the request of MICIVIH, Louis Joinet, a senior French magistrate and Special Rapporteur on impunity of the Subcommission on Prevention of Discrimination and Protection of Minorities, visited Haiti. During the visit, the Mission published and widely distributed a booklet entitled "Impunity and compensation, the draft United Nations principles". The following month, MICIVIH provided assistance to a group of Haitian non-governmental organizations (NGOs) which had invited Adolfo Perez Esquivel, winner of the 1980 Nobel Peace Prize. He was accompanied by two other Argentine human rights leaders. The visits played a key role in sensitizing the authorities and the general public to the importance of these questions while at the same time lending considerable moral support to the organizations which had sought with increasing success to keep these issues alive.

48. The Mission produced radio programmes and participated actively in various debates and workshops organized by associations of victims on these questions. One of these associations, the Mouvement d'appui aux victimes, with MICIVIH assistance, presented a proposal for a national policy on compensation. In another encouraging sign of the increasing technical capacity of some human rights associations, the Plateforme des organisations haïtiennes des droits de l'homme produced a plan of action to fight impunity.

49. A special unit established within the Ministry of Justice about a year ago, the Bureau poursuite et suivi, recently completed several projects in various parts of the country for groups of victims. These projects consisted of both individual homes and community facilities, such as schools. The Mission has repeatedly pointed out the need for this unit to operate with transparency, to select beneficiaries on the basis of established guidelines and to seek input from legitimate victims' defence organizations.

50. During the period under review, not much progress was made with regard to investigations and the preparations for trial of serious past abuses. In a report that is in the final stages of preparation, the Mission made an inventory of all untreated complaints and incomplete judicial cases and analysed the structural and circumstantial causes of impunity. Some of this information has already been communicated to the Minister of Justice, in particular, the Mission's concerns over the number of dormant cases and of files missing in certain jurisdictions in the light of the State's obligation to fight against impunity.

51. The Mission continued to provide judicial authorities with technical assistance and advice in the consolidation of case files and in the preparation of the Raboteau massacre trial. The Mission also ensured the follow-up to a team of expert witnesses (two forensic anthropologists and a geneticist) who have assisted in the identification of the remains of certain victims. The preparations for the trial received a setback when the examining magistrate resigned

abruptly in August. Other more recent resignations have weakened considerably the criminal justice system in Gonaïves.

52. Human rights and victims' defence organizations were again critical of the non-return of the confiscated documents belonging to the former Armed Forces of Haiti and the paramilitary group FRAPH (Front révolutionnaire pour l'avancement et le progrès d'Haïti) which are still in the hands of the American authorities. Those documents could prove useful in the preparation of cases before the courts.

53. Persons arrested earlier this year in Port-de-Paix but detained in Port-au-Prince in connection with the Jean-Rabel massacre of July 1987 have not yet been interrogated by the public prosecutor, who has requested special security measures for his own protection. In like manner, proceedings have not progressed with regard to persons arrested in April 1998 for the importation and dumping of toxic waste in Gonaïves in 1988. In both cases, the authorities appear to have succumbed to intense popular pressure, with the result that the arrests and ensuing detentions have not become the starting point for the preparation and prosecution of a just and equitable trial.

54. At the request of the Ministry of Justice, MICIVIH is currently in the process of distributing on a national scale the 1996 report of the National Commission on Truth and Justice, whose recommendations with regard to impunity and compensation have not yet been implemented.

D. Office of the Ombudsman

55. The Office of the Ombudsman (Office du Protecteur du citoyen) will celebrate its first year of operations in November. MICIVIH has continued to provide technical assistance and moral support. A consultant recruited by the Mission is currently helping to reinforce the Office through improvements to its management procedures and to the structuring of future activities.

56. The Office continues to be underfunded (less then 20 per cent of the budget submitted was allocated) and, consequently, incapable of increasing its activities and public profile. The majority of complaints received are administrative in nature. However, complaints addressed to the Ministry of Justice relate to shortcomings in the administration of justice, misconduct of the police, and prison conditions. The Ombudsman is of the view that, with adequate resources, his Office would be in a better position to bring about improvements through direct intervention or by bringing detailed information to the attention of Parliament and the Executive in his annual report.

IV. Human rights promotion

57. MICIVIH continued to be an active organizer and promoter of human rights education and awareness programmes. As well as trying to enhance knowledge and awareness of human rights, MICIVIH programmes aimed to clarify thinking about values such as fairness, equality and justice, and develop a critical understanding of the obstacles to full enjoyment of rights and freedoms, especially among State agents.

58. Celebration of the fiftieth anniversary of the Universal Declaration of Human Rights continued to give rise to a wide range of MICIVIH promotional activities, as mentioned in the last report. A travelling exhibition on the Declaration and the history of the struggle for human rights in Haiti has met with great success since it commenced in September.

59. Evaluations of MICIVIH programmes on human rights promotion were completed. According to a survey by an opinion polling firm, at least 2 million of Haiti's 7.5 million inhabitants were reached by the 1997 campaign of radio and television spots about the citizen's role in promoting justice. Of those polled, 60 per cent viewed the campaign favourably and 40 per cent thought it had a positive impact on behaviour. An internal assessment of the more than 300 educational seminars conducted in 1997 indicated that they, too, made a difference. Six of a total of seven focus groups around the country thought that the objectives of the seminars were at least partially attained. Half of the volunteer trainers surveyed in a questionnaire reported an improvement in the behaviour or attitude of civil society members and State agents following seminars.

60. In the past few months, there has been an increase in the demand for MICIVIH seminars and workshops on the rights and responsibilities of citizens, women's rights, the new local government system and the roles of the police and the judiciary. These were conducted by animators trained and supported by MICIVIH. Training conducted by MICIVIH human rights promotion staff focused increasingly on the police, the prison system and the judiciary.

61. During the period under review, the Mission increased promotional activities focusing on women's rights. Seminars were given throughout the country in collaboration with women's groups to explain women's rights under national and international law and help participants to understand

existing laws that are gender-discriminatory. Special emphasis was placed on the theme of violence against women, an issue of special local concern, in order to make participants more aware of the existing mechanisms which protect their rights. MICIVIH took part in workshops organized by the Ministry of Women's Affairs, which examined ways to increase the participation of women in the fields of politics and education. It also participated, with United Nations agencies, representatives of women's organizations and the Ministry of Women's Affairs, in a commission set up by the United Nations Population Fund to examine the existing national laws that discriminate against women, particularly those relating to rape, domestic service and adultery. Proposals for changes to these laws were submitted to the Senate Judicial Affairs Committee. MICIVIH also participated in a United Nations inter-agency meeting which addressed the development of an institutional and legal framework to promote respect for international treaties ratified by Haiti which deal with the rights of women and children.

62. MICIVIH translated into Creole legal texts relating to sexual discrimination and violence against women and coordinated within Haiti the Americas campaign of the United Nations Development Fund for Women for an end to violence against women, with the active support of United Nations agencies, women's organizations and Haitian authorities. In the context of the campaign, MICIVIH and United Nations agencies together produced information spots and programmes for radio and television transmission, organized conferences and seminars on the theme and published and distributed a leaflet in Creole explaining what measures women who were victims of violence could take and who could help them.

63. August saw the completion of the fourth and final segment of a conflict resolution training programme begun in late 1997 for human rights activists, women's representatives, student activists and peasant leaders. The final segment stressed the need for broad participation of citizens in resolving community conflicts. To evaluate the impact of MICIVIH conflict resolution seminars for peasant leaders in Artibonite during the past two years, interviews were conducted with participants and others from July to September. The final report is being completed.

64. In its capacity-building efforts with human rights NGOs, the Mission continued to provide support to a new network of regional NGO committees that have commenced monitoring the treatment of detainees in prisons and police stations.

65. As part of its advocacy activities, a new, dramatized series of one-minute MICIVIH spots was launched, broadcast an average of seven times a day on each of a total of 71 radio and television stations throughout the country. Each of the 12 spots ran for two weeks. The series showed judges, police officers, detainees and the public in situations illustrating their respective rights and responsibilities in the functioning of the justice system. Radio stations in the network also broadcast a series of 30-minute information programmes made by MICIVIH on such subjects as impunity, compensation of victims and the penal system. Six regional offices produced regular phone-in programmes for local radio stations in which police, judicial officials and other local authorities were interviewed about their work. Regional offices also began using portable generators to show MICIVIH-produced video documentaries at seminars and other promotional activities in remote localities. The Mission began production of a 52-minute video documentary on the evolution of the human rights situation in Haiti during the period of the Mission's presence in the country. MICIVIH directors continued to give regular interviews which, like the Mission's news conferences and press releases, usually received wide coverage in the Haitian news media. The Mission made its public documents available on a Web site (www.un.org/rights/micivih/) and a MICIVIH newsletter was revived to make more of the Mission's information available locally.

V. Conclusions and recommendations

66. Four years after the re-establishment of constitutional order, undeniable progress has been made in the human rights field. However, in the absence of well-established institutions, that progress will remain fragile. Rising intolerance and polarization stemming from the protracted political crisis have already cast shadows over the full enjoyment of fundamental rights and freedoms. Concerns over the security of the State have impinged on respect for due process and the rule of law.

67. The Haitian National Police has continued to make institutional and operational progress in a context of increasing political difficulties, despite major logistical and other constraints, and to address instances of crime, corruption and drug trafficking within its ranks. Though growing in maturity, the rank and file still display a low threshold of self-discipline and respect for individual rights when dealing with surges of armed crime and of threats against members of the institution.

68. Judicial reform remains pivotal to improvements in the functioning of the police as an institution respectful of the law as well as to the more widespread respect for individual liberties and due process. The time has come for sagacious and energetic government leadership to start implementing, as a matter of urgency, the recommendations for reform in this crucial area of activity. MICIVIH stands ready, as before, to contribute its field knowledge and its technical expertise and assistance in support of the Haitian authorities.

69. MICIVIH and MIPONUH, whose responsibilities complement each other, have continued to work closely together in the training of the Haitian National Police, in fostering respect for human dignity and rights by police agents, and in improving relations between the police and their local communities. MICIVIH has also participated in the ongoing process initiated by the United Nations Development Programme to improve coordination between the members of the United Nations family. This has facilitated the streamlining and the mutual support for activities of interest to other agencies, particularly the United Nations Educational, Scientific and Cultural Organization, the United Nations Children's Fund and the United Nations Population Fund.

70. MICIVIH continues to play a key role in the protection and promotion of individual rights and collective freedoms. Local institutions, such as human rights organizations, parliamentary oversight committees and the Office of the Ombudsman, also play an important role, to varying degrees, in this regard. Some of the more established human rights groups have improved their monitoring and reporting capacity. However the Office of the Ombudsman is not yet ready to become the central point of reference for those whose rights have been violated.

71. The complementarity between human rights monitoring and institution-building makes the Mission a valuable partner for the Haitian authorities in their efforts to increase accountability and respect for human rights and to lay the foundations of the rule of law. In addition, its activities in the areas of human rights promotion, advocacy and local capacity-building contribute to the establishment of a democratic culture in support of the efforts of the governmental and non-governmental organizations of Haiti. I therefore recommend, as requested by President Préval on 6 November 1998 (see annex), that the United Nations component of MICIVIH be extended for a period of one year with the current mandate and staff level, and that the Mission continue to focus on institutional consolidation and provide appropriate technical assistance to the justice system during the implementation of the judicial reform.

Annex

[Original: French]

Letter dated 6 November 1998 from President René Préval addressed to the Secretary-General

Following the return to constitutional order, the Haitian State has benefited from the cooperation of the Organization of American States/United Nations International Civilian Mission to Haiti (MICIVIH), which has attempted to complement its analysis of the human rights situation in the country with constructive recommendations to improve the functioning of key institutions for the promotion and protection of individual rights and fundamental freedoms.

Despite the progress made, the task of institutional consolidation is not yet complete. In this regard, finalization of a document presenting a strategy and detailed plan of action for implementation of the recently promulgated act on judicial reform should accelerate the process of strengthening the judicial system in the years ahead. In this connection the expertise and experience of MICIVIH could facilitate implementation of reform and support the judicial machinery in its progress towards greater impartiality, strengthening of its independence and systematic respect for constitutional guarantees.

The Haitian State also welcomes the progress made in increasing awareness of human rights among the population with the assistance of MICIVIH. These initiatives, aimed at structuring society around civic values and attitudes, should be encouraged.

Consequently, the Haitian Government wishes MICIVIH to continue its activities until 31 December 1999. However, the Government would wish the Mission mandate, in view of the changes which have taken place in the situation in the country, to be structured around the current need to strengthen institutions and for activities to be focused on providing technical assistance to all components of the judicial machinery.

(*Signed*) René **Préval**